

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BRIDGET M. CURRAN, individually, and
as natural Guardian of C.F.C., a minor.

Civ. Act. No.: 13-cv-00289

Plaintiff,

-against-

AETNA LIFE INSURANCE COMPANY,
TRINET GROUP, INC., and THE TRINET
OPEN ACCESS MANAGED CHOICE PLAN,

Defendants.

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**DECLARATION OF
MICHAEL H. BERNSTEIN**

**DOCUMENT
ELECTRONICALLY FILED**

MICHAEL H. BERNSTEIN, pursuant to 28 U.S.C. §1746(2) declares under penalty of perjury the following:

1. I am a member of the firm of Sedgwick LLP, attorneys for the Defendants Aetna Life Insurance Company, TriNet Group, Inc., and TriNet Group, Inc. Section 125, Section 129, and Flexible Spending Account Plan incorrectly sued herein as The TriNet Open Access Managed Choice Plan (collectively “Defendants”). As such, I am fully familiar with the facts and circumstances in this matter.
2. I submit this Declaration and the exhibit annexed hereto in support of Defendants’ Motion for an Order pursuant to Rule 12(b)(6), FED. R. CIV. P., dismissing Plaintiff’s Amended Complaint as against Defendants, and for such other and further relief as this Court may deem just and proper.
3. On January 14, 2013, Plaintiff commenced this action by filing a Complaint with the clerk of the Court. A true and correct copy of the original Complaint is attached hereto as Exhibit “E.”
4. On July 30, 2013, Hon. Nelson Stephen Roman held a pre-motion conference with all parties to discuss Defendants’ proposed motion to dismiss Plaintiff’s Complaint. A true and correct copy of the hearing transcript is attached hereto as Exhibit “F.”

5. In accord with the Court's direction at the pre-motion conference, Plaintiff filed an Amended Complaint on August 2, 2013. A true and correct copy of the Amended Complaint is attached hereto as Exhibit "G."

Dated: August 26, 2013

I declare under penalty of perjury that the foregoing is true and correct.

s/

MICHAEL H. BERNSTEIN

CERTIFICATE OF SERVICE

I, RYAN C. CHAPOTEAU, hereby certify and affirm that a true and correct copy of the DECLARATION OF MICHAEL H. BERNSTEIN attached was served via ECF on this 26th day of August, 2013, upon the following:

David J. Squirrell
Banks Curran Schwam and Squirrell, LLP
Attorneys for Plaintiff
61 Smith Avenue
Mount Kisco, NY 10549
(914) 666-2161

s/_____
RYAN C. CHAPOTEAU (RC 1986)

Dated: New York, New York
August 26, 2013